

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SCOTT JOHNSON,  
Plaintiff,

v.

RICHARD G. MATUSICH, et al.,  
Defendants.

Case No. [5:21-cv-05761-EJD](#)

**ORDER DENYING WITHOUT  
PREJUDICE ADMINISTRATIVE  
MOTION REQUESTING EXTENSION  
OF TIME TO COMPLETE SERVICE**

Re: Dkt. No. 12

Plaintiff Scott Johnson filed this action alleging violation of the Americans with Disabilities Act on July 27, 2021 against Defendants Richard G. Matusich and Union Ave Group, Inc. (“Union Ave”). Dkt. No. 1. Summons issued on July 28, 2021. Dkt. No. 5. On August 23, 2021, Johnson and Union Ave filed a stipulation to extend time for Union Ave to respond to the complaint. Dkt. No. 10. On September 3, 2021, Johnson filed the summons return indicating that he served Union Ave with process on September 2, 2021. Dkt. No. 11.

On September 22, 2021, Johnson filed an administrative motion requesting an extension of time to complete service on Defendant Matusich. Dkt. No. 12. Federal Rule of Civil Procedure 4(m) requires service of process on a defendant within 90 days after the complaint is filed but permits extensions of time where a plaintiff demonstrates good cause. Fed. R. Civ. P. 4(m).

The Court finds that Johnson has failed to show good cause for an extension. First, Johnson’s deadline to serve Matusich is not until October 25, 2021—90 days from the filing of the complaint on July 27, 2021. Second, Johnson’s motion refers to the COVID-19 outbreak causing courts to not function “at their full capacity at this time” and “shelter-in-place” restrictions within


Case No.: [5:21-cv-05761-EJD](#)  
ORDER DENYING ADMIN. MOT.

the Northern District as reasons he has been unable to effect personal service at this time. Dkt. No. 11 at 1–2. However, the accompanying declaration of Tehniat Zaman provides no factual explanation of how COVID-19 or local conditions frustrated Johnson’s attempts to serve Matusich.<sup>1</sup> See Dkt. No. 12-1. Indeed, the fact that Johnson had a process server attempt personal service six times would appear to contradict that assertion. Dkt. No. 12-1, Ex. 1. Third, Johnson seeks an extension of 90 days to serve Matusich, but that lengthy period of time is not justified where he “anticipates that service upon Defendant can be completed shortly.” Dkt. No. 12 at 2.

Accordingly, the Court DENIES the motion for lack of good cause. Johnson may renew his motion should he still prove unable to serve Matusich by the original Rule 4(m) deadline of October 25, 2021.

**IT IS SO ORDERED.**

Dated: September 22, 2021

  
 EDWARD J. DAVILA  
 United States District Judge

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<sup>1</sup> The Zaman declaration also asserts under penalty of perjury that Johnson was unable to obtain a stipulation for an extension because “no Defendant has appeared”—but a cursory inspection of the docket shows that that statement is not true. Dkt. No. 12-1 ¶¶ 11-12.